THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition of Boston Edison Company and
Commonwealth Electric Company
for Approvals Relating to the Issuance of
Rate Reduction Bonds Pursuant to G.L. c. 164, §1H

D.T.E. Docket No. 04-70

COMMENTS OF THE AGENCIES ON THE
BOSTON EDISON COMPANY AND COMMONWEALTH ELECTRIC COMPANY PETITION

MassDevelopment (successor to the Massachusetts Industrial Finance Agency) and Massachusetts Health and Educational Facilities Authority (the "Agencies"), acting jointly, hereby submit the following comments regarding the petition (the "Petition") of Boston Edison Company and Commonwealth Electric Company (collectively referred to herein as the "Companies" and individually as a "Company") to issue electric rate reduction bonds ("RRBs") and the role of the Agencies in this process. These comments are based on a review of the Petition as well as discussions over time with the principal rating agencies involved in rating such transactions, the underwriters and the Companies and the Companies' legal counsel prior to their filing of the Petition.

Agencies' Goal

As the Financing Entity for the RRBs, the Agencies' goal is to protect the interests of the ratepayers of each Company, who through the payment of the transition charges are the sole source of payment for the RRBs, by:

1. Ensuring the all-in costs of issuing the RRBs are minimized given current market conditions;

2. Streamlining the administrative processes and thereby minimizing the costs of issuing the RRBs; and

3. As provided for in G.L. c. 164, §1H(b)(2), providing expertise to the Department of Telecommunications and Energy (the "Department") regarding the requirements of

the Financing Order to allow for the most cost-efficient structure for the issuance of the RRBs.

Agencies' Roles

The Agencies will oversee the issuance of the RRBs. They will approve the final terms and conditions of the RRBs including structure, pricing, credit enhancement, certain issue costs and manner of sale, thereby protecting the interests of the ratepayers. The Agencies will also coordinate the marketing of the bonds and the procurement of bond trustees and related services, approve the Companies' selection of rating agencies, and coordinate the underwriting syndicate to minimize the all-in cost of the RRBs and associated administrative expenses. In addition, the Agencies are available as intervenors to the Department to provide expertise regarding financial aspects of the RRBs.

Agencies' Analysis of the Companies' Petition

The Agencies and their legal and financial professionals have analyzed the following aspects of the Petition:

- *The Legal Validity of the Proposed Order:* The Agencies have reviewed the proposed Financing Order contained in the Petition to ensure it meets the legal requirements to issue RRBs. The Agencies believe these requirements are met.

- *The Ability to Meet Rating Agency Requirements:* The Agencies have reviewed the proposed Financing Order to ensure that the RRBs issued thereunder could achieve the highest rating category. The Agencies believe the proposed Financing Order includes the provisions necessary for the RRBs to achieve the highest possible ratings from major rating agencies and therefore bear the lowest interest cost in the current rate environment. Those provisions include the following:

    - *Automatic True-Up Mechanism*: The True-Up mechanism provides a methodology for each of the Companies to conduct routine periodic true-ups as required without further Department deliberation, though the Department has 15 days to ensure that the methodology was implemented correctly. This meets the rating agency requirement that true-ups be implemented automatically in a timely manner, guaranteeing timely payments to RRB holders. The ability to do true-ups as frequently as quarterly if required is also included in the Financing Order, thereby meeting rating agency requests for the possibility of more frequent than annual true-ups during the time period between expected and legal final maturity of each tranche of RRBs.

- *Additional Credit Enhancement:* The proposed Financing Order provides additional credit enhancement mechanisms to enhance the credit ratings of the RRBs by providing a cushion to cover shortfalls in RTC Charge collections. Each Company is required to provide for an overcollateralization subaccount and a capital subaccount in amounts to be determined by the Companies with input from the rating agencies prior to the time the RRBs are priced. The reserve subaccount, which holds collections in excess of amounts needed to meet payment obligations, will provide additional cushion.

- *Minimum Credit Criteria for Billing by Third-Party Billers ("TPBs"):* The proposed Financing Order includes criteria for each TPB consolidated billing that meet the requirements of the rating agencies. Specifically, these criteria are:

  - *Minimum Qualification Standard:* The Financing Order requires any TPB rated below 'BBB' to post a cash deposit or comparable security equal to one month's maximum estimated collections if the TPB wishes to bill and collect transition charges. One month's maximum estimated collections should be sufficient to address rating agency concerns.

  - *Time Frame for Remittance:* The Financing Order specifies that payments due from ratepayers should be submitted by the TPB to the respective Company within 15 days of billing, regardless of whether payments have been received by the TPB. Rating agencies suggest this procedure to facilitate tracking of payment delinquencies and ensure a clear definition of payment obligations. For example, if payment is due to a Company within 15 days of receipt by the TPB, such Company cannot determine absolutely that the TPB has met this requirement. If payment is due 15 days after billing, there is an objective standard upon which to base compliance.

  - *Reversion to Dual Billing:* If a payment is not made by the TPB within the designated time frame, billing will revert to the respective Company within seven days. This requirement is consistent with rating agency requirements because it minimizes the potential impact of a TPB default.

  - *Financial Responsibility:* As noted above, each TPB is responsible for remitting transition charges to the respective Company, regardless of whether the ratepayer has paid. This requirement is consistent with rating agency requirements and will provide an incentive for the TPB to diligently pursue slow paying ratepayers and to manage work-out or default situations.

  - *True-up Applicability:* In the event of a default in the remittance of RTC charges by a TPB, such amount will be included in the True-up calculation to the extent necessary.

This requirement is consistent with rating agency requirements, ensuring that default by a major TPB will not impair the repayment of the securities.

- *Assurance that "Benefits" are Delivered to Customers:* The Companies estimate net present value savings to ratepayers at $130 million, resulting from a reduction in the transition charge due to the issuance of RRBs. The Agencies will be prepared to assist in reviewing the financial analysis to ensure its accuracy.

- *The Existence of a Mechanism to Capture Incidental Benefits for Ratepayer:* The proposed structure includes a Memorandum Account for each Company to account for and credit to ratepayers any amount remaining in the collection account and the various subaccounts (other than the capital subaccount) after its special purpose entity ("SPE")'s Debt Securities are paid in full, which include interest earnings on such accounts, RTC Charge collections that remain after its SPE's Total Payment Requirements have been discharged, and other incidental benefits received by the Companies, should there be any. The language of the Financing Order should ensure that any amounts accounted for in the Memorandum Account, as well as any RTC Charge collections that remain after retirement of the RRBs, are credited to ratepayers, regardless of whether there still exists a transition charge.

- *Costs of Issuance:* The Agencies are presently reviewing with each of the Companies its transaction costs and on-going administrative costs. Fees which have been established, negotiated or approved by the Agencies include underwriting spread, rating agency fees, printing and marketing expenses, trustee fees and trustee counsel fees, underwriters' legal fees, bond counsel fees, special counsel fees, Agencies' fees, and miscellaneous costs and expenses. The Agencies' approval of the reasonableness of such costs will be required. Combining the issuance of RRBs by both Companies in one transaction will result in issuance cost savings and other efficiencies, thereby lowering costs for customers.

- *Proposed Remittance Structure:* The Agencies agree with the proposed process by which each of the Companies will remit to their respective SPE estimated RTC Charge collections based on amounts billed and current cash received and based on a methodology satisfactory to the rating agencies to be designed by the Companies.

- *Servicing Fees:* The proposed Financing Order provides for an annual servicing fee of up to 1.25% of the initial principal balance for servicers who do not concurrently bill the RTC Charge with other service charges to ensure the ability to service these bonds in the event the Companies cannot. As long as the servicing remains with a Company or any other entity that concurrently bills other charges, the fee will be .05% of the initial principal balance, which the Agencies believe is a reasonable fee and has been determined though negotiations between the Agencies and the Companies.

Items Outside the Agencies' Purview

As a matter of information, the role of the Agencies does not include review and comment on the following matters, which are properly within the Department's authority:

- *Determination and Audit of Reimbursable Transition Costs Amounts*
- *The Use of RRB Proceeds by the Company*
- *Audit of Savings*
- *Matters Related to the Termination of Power Purchase Agreements*
- *Certain Transaction Costs (SEC and filing fees, Companies' legal and accounting fees, covenant amendment fees)*

Respectfully submitted,

MASSDEVELOPMENT
MASSACHUSETTS HEALTH AND EDUCATIONAL FACILITIES AUTHORITY
by its attorneys,

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September 30, 2004

COMMONWEALTH OF MASSACHUSETTS

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Comments of the Agencies upon all parties listed on the attached Service List in accordance with the requirements of 220 C.M.R. §1.05(1) (Department's Rules of Practice and Procedure).

Dated this 30th day of September, 2004.

Maria J. Krokidas

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